THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10728 of 2006

Dated: 28-09-2006

Between:

Matta Govind Rao and another.

..... PETITIONERS

AND

The Revenue Divisional Officer, Kakinada, and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.10728 of 2006

ORDER:

The petitioners are residents of Paradesammapeta, Jagannadhapuram, Kakinada, East Godavari District. They are allegedly owners of wet land admeasuring Ac.1.82 cents in survey No.27.8 of Kakinada Urban Mandal. They allege that the Mandal Revenue Officer (MRO), respondent No.2 herein, issued notice dated 08-04-2006 to them under Section 6 of the Land Acquisition Act, 1894 (the Act, for brevity) proposing to acquire their land for providing house sites to the weaker sections. They also allege that the respondent declared that possession will be taken after expiry of fifteen days from the date of issuance of notice under Section 9(1) of the Act by invoking the provisions of the Act. The petitioners, therefore, filed instant writ petition seeking a writ of Mandamus declaring the action of the respondents in issuing impugned notice dated 08-04-2006 without issuing notification under Section 4(1) of the Act as illegal and arbitrary.

The matter was initially heard by this Court on 31-05-2006. This Court while ordering notice before admission observed "while the petitioners submit that declaration under Section 6 of the Land Acquisition Act was issued and signed by the Mandal Revenue Officer, Kakinada Urban, the learned Government Pleader for Land Acquisition submits that it is only a proposal submitted to the District Collector". This Court further observed "as of now no valid proceedings can be said to be in existence." and while ordering interim stay posted the matter after six weeks. In a similar writ petition, being W.P.No.10611 of 2006, a counter affidavit was filed by RDO. It was stated in the counter affidavit that there is no proposal to take possession of the land in question without following the provisions of the Act.

Learned counsel for the petitioners, however, submits that xerox copy of the notice issued by MRO would belie the contentions in the counter affidavit. This Court is afraid the same cannot be accepted. Illegible xerox copy, which is not even certified, cannot be treated as conclusive proof of a disputed fact. Further, as rightly pointed out by the learned Assistant Government Pleader for Revenue (General), MRO is neither competent nor has power to issue declaration notification under Section 4(1) of the Act or to conduct award enquiry under Section 6 of the Act. No credence can be given to the document relied on by the petitioners. In the counter affidavit, RDO clearly stated that there is no proposal to acquire the land of the petitioners.

The writ petition is devoid of merits and is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

28th September, 2006
ghn